



November 27, 2017

Hon. Stacy L. Ruble, Secretary  
Postal Regulatory Commission  
901 New York Avenue NW, Suite 200  
Washington, D.C. 20268-0001

Dear Mr. Ruble:

In connection with the Commission's rules pertaining to periodic reports, 39 C.F.R. § 3050, I am submitting today copies of the quarterly Billing Determinants for Quarter 4 of Fiscal Year (FY) 2017. This report consists of two main parts:

1. Market Dominant Products Billing Determinants – FY 2017 Quarter 4 (This part is **Public**, and includes a total of eight subparts organized by class<sup>1</sup>);
2. Competitive Products Billing Determinants – FY 2017 Quarter 4 (This part is **Non-Public**, and includes a total of nine subparts<sup>2</sup>);

I have uploaded electronic copies of each of these files to their respective Public and Non-Public folders on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT).

As noted above, part 1 of the Billing Determinants for Quarter 4 (Market Dominant Products Billing Determinants, separated into eight subparts) is public and may be posted on the Commission's website. Part 2 (Competitive Products Billing Determinants, separated into nine subparts) is confidential and non-public and should not be posted on the Commission's website. The Postal Service has

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<sup>1</sup> Specifically, Alaska Bypass, Bound Printed Matter, First-Class Mail Domestic, First-Class Mail International, Media and Library Mail, Market Dominant Special Services, Periodicals, and USPS Marketing Mail. Note that the Market Dominant Special Services file now includes the billing determinants for international special services. In past quarters, international market dominant special services had been included in the "International Market Dominant" billing determinants files, which now include only First-Class Mail International products and have been relabeled accordingly.

<sup>2</sup> Specifically, a cover page plus Competitive International, Competitive Special Services, First-Class Package Service, Parcel Return Service, Parcel Select, Priority Mail, Priority Mail Express, and Retail Ground.

determined that the entire contents of this competitive products submission should be withheld from public disclosure and that redaction of only parts would not be meaningful or practicable.

Attachment 1 to this letter is the Postal Service's "Application of the United States Postal Service for Non-Public Treatment of Materials." The Postal Service incorporates this application by reference here. The application applies to all of the materials described above that the Postal Service has designated as non-public and for which it has requested confidentiality.

If you have any questions regarding this submission or the discussion above, please do not hesitate to contact me.

Best regards,

/s/

Maria W. Votsch  
Attorney, Pricing and Product Support

cc: Ms. Taylor

## ATTACHMENT 1

### APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials consist of the billing determinant reports for the fourth quarter of Fiscal Year (FY) 2017, to the extent they concern competitive products, both domestic and international. Public versions of these reports, which show both domestic and international market dominant product information, are included with this filing as separate Excel files.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c).

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

The materials designated as non-public consist of information of a commercial nature that under good business practice would not be publicly disclosed. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4). Because the portions of the materials that the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, are not required to

be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).<sup>1</sup> Because the portions of the billing determinant reports filed non-publicly fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

**(2) Identification, including name, phone number, and email address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

In the case of billing determinant reports, the Postal Service believes the only third parties with a proprietary interest in the materials are the negotiated service agreement (NSA) customers whose mailing profile information is included in the reports. The Postal Service maintains that any customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the customers of negotiated service agreements, the Postal Service gives notice that it has already informed each customer, in compliance with 39 C.F.R. § 3007.20(b), about the nature and scope of filings of quarterly Billing Determinants, and about the customer's ability to

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<sup>1</sup> The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third parties with a proprietary interest in the materials filed in this docket is Elizabeth A. Reed, Attorney, 475 L'Enfant Plaza, S.W., Washington, DC 20260-1137, whose email address is Elizabeth.A.Reed@USPS.gov, and whose telephone number is (202) 268-3179.

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

In connection with this application, the Postal Service has filed the billing determinant reports for the fourth quarter of FY 2017. A version showing information for competitive products was filed under seal, with a version showing information for market dominant products filed publicly. The Postal Service maintains that the non-public portions of these materials should remain confidential.

The NSA tab in several of the Excel files submitted under seal displays the names of postal patrons whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2).<sup>2</sup> The remaining data on the same worksheets consist of revenue, volume, and weight information relevant to each customer's mailing profile, which is commercially sensitive.

All other data in the non-public Excel files consist of commercially sensitive information such as domestic and international competitive product volume and revenue

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<sup>2</sup> In some or all cases, the names of NSA customers may have been coded according to Commission docket numbers. Notwithstanding this possibility, the Postal Service submits that certain customers could be identified by industry experts based on the mailing profile information. Therefore, even if the customer-identified information is coded, the Postal Service believes that the information itself could disclose customer identities. Consequently, the Postal Service seeks protection from disclosure on that basis.

according to pricing level and weight step, adjustment factor calculations (which are based on particular competitive product revenues), as well as international insurance volume and revenue according to insured value level.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the information that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. First, revealing any customer identifying information would enable competitors to focus marketing efforts on current postal customers which have been cultivated through the efforts and resources of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, the Postal Service's competitors would take immediate advantage of it. Many NSAs include a provision allowing the mailer to terminate the contract without cause by providing at least 30 days' notice. Therefore, there is a substantial likelihood of losing the customers to a competitor that targets them with lower pricing.

Other information filed non-publicly consists of mailing profile information. This information, if disclosed, would offer competitors invaluable insight into the type of customers to whom the Postal Service is offering each type of competitive NSA. Even without identifying individual mailers, competitors would be able to direct their sales and marketing efforts at the customer segment that the Postal Service has had the most success at attracting. This would undermine both existing customer relationships and the potential for other new NSA customers.

A similar rationale applies to information showing domestic and international published price product revenue and volume according to weight, pricing, and insured value levels, as well as adjustment factor calculations based on product revenues. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to analyze the Postal Service's possible market strengths and weaknesses and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the material filed non-publicly.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Harm: Revealing any type of customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of one or more customers listed in these reports is revealed to the public. Another expedited delivery service has an employee monitoring the filing of periodic reports and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the Postal Service in favor of using the competitor's services.

Harm: Public disclosure of information in the report would be used by competitors of the NSA customers to their detriment.

Hypothetical: A competitor of a USPS NSA customer obtains a copy of the unredacted version of the billing determinants report from the Postal Regulatory Commission's website. It analyzes the work papers to assess the customer's underlying costs, and

uses that information to identify lower cost alternatives to compete against the USPS customer.

Harm: Competitors could use customer mailing profile, product volume, weight, and revenue distribution, and product insured-value distribution information to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.

Hypothetical: Customer mailing profile information in the billing determinant reports is released to the public. Another delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor assesses the typical size, mailing volume, and content characteristics of Postal Service NSA customers. The competitor then targets its advertising and sales efforts at actual or potential customers with similar profiles, hindering the Postal Service's ability to reach out effectively to these customers.

This hypothetical also applies to more generic product-level data, from which one can calculate the volume and revenue performance of each identified competitive product and the distribution of the Postal Service's overall customer base in terms of item weight, revenue, or value (in the case of international insurance). For these reasons, release of any of the non-public information would pose actual commercial harm to the Postal Service, regardless of the information's present favorability.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the portions of the materials filed non-publicly and relating to competitive products should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products (including private sector integrators and foreign postal administrations), as well as their



consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for these or similar products should not be provided access to the non-public materials.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. The Postal Service believes that the ten-year period of non-public treatment is sufficient to protect its interests with regard to the information it determined should be withheld due to commercial sensitivity, other than any customer identifying information.

The Postal Service believes that any customer identifying information should be protected permanently and asks the Commission to extend the duration of non-public status of that information indefinitely. As discussed above, disclosure of any customer identifying information leaves the Postal Service vulnerable to competitive "cherry-picking." Customers may continue to renew their NSAs, but the implementation of a new 10-year period of non-public treatment with each renewed contract does not affect the expiration of non-public treatment of the same information under the original contract. For transparency purposes, the Postal Service routinely discloses which agreements are with new or existing customers. In the case of existing customers, the Postal Service also identifies the Commission docket in which the prior agreement was reviewed. This will make it possible for competitors to determine the customers' identities and focus sales and marketing efforts on them when the initial 10-year period

of non-public treatment expires. While this may seem inconsequential at the outset, in reality it has the same effect in ten years as it would for the information to be made public from the start. Therefore, the Postal Service seeks indefinite non-public treatment of each customer's name, address, and other identifying information in the non-public materials.

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials. The Postal Service further requests that the Commission order that the duration of such treatment of any customer identifying information be extended indefinitely.